IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE, TENNESSEE

WORD MUSIC, LLC., a Tennessee Limited Liability company, DAYSPRING MUSIC, LLC, a Tennessee Limited Liability Company, WORDSPRING MUSIC, LLC., a Tennessee Limited Liability company, UNICHAPPELL MUSIC, INC., a Delaware corporation, CHAPPELL & CO., INC., a Delaware corporation, COTILLION MUSIC, INC., a Delaware Corporation, RIGHTSONG MUSIC, INC., a Delaware Corporation, WALDEN MUSIC, INC., a New York Corporation, WARNER/TAMERLANE PUBLISHING CORP., a California corporation, and WB MUSIC CORP., a California corporation,	)	**Case No. 3:07-cv-502** **JURY DEMAND** **Judge Haynes**
Plaintiff,	)	**PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO STRIKE DECLARATION OF RICHARD L. PRIDDIS**
vs.-	)	
PRIDDIS MUSIC, INC., a Nevada corporation, RICHARD L. PRIDDIS, individually, PROSOUND KARAOKE LTD., a United Kingdom corporation, MEDIOSTREAM, INC., a California corporation, d/b/a "K SUPERSTAR," D.J. MILLER MUSIC DISTRIBUTORS, INC., a Colorado corporation, d/b/a "PROSING," and DALE S. MILLER, Individually	)	
Defendants.	)	

Plaintiffs, WORD MUSIC, LLC., a Tennessee Limited Liability Company, DAYSPRING MUSIC, LLC, a Tennessee Limited Liability Company, WORDSPRING MUSIC, LLC., a Tennessee Limited Liability company, UNICHAPPELL MUSIC, INC., a Delaware

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corporation, CHAPPELL & CO., INC., a Delaware corporation, COTILLION MUSIC, INC., a Delaware Corporation, RIGHTSONG MUSIC, INC., a Delaware Corporation, WALDEN MUSIC, INC., a New York Corporation, WARNER/TAMERLANE PUBLISHING CORP., a California corporation, and WB MUSIC CORP., a California corporation, ("Plaintiffs"), by and through their attorneys, Paul Harrison Stacey, Law Offices of Paul Harrison Stacey, P.C. and Timothy L. Warnock, Bowen, Riley, Warnock & Jacobson, PLC, submit this Memorandum of Law in Support of Their Motion to Strike the Declaration of Richard L. Priddis.

On July 17, 2007, the PRIDDIS Defendants (PRIDDIS MUSIC, INC., a Nevada corporation, RICHARD L. PRIDDIS, individually, and PROSOUND KARAOKE LTD., a United Kingdom corporation), filed the **DECLARATION OF RICHARD L. PRIDDIS** (Doc. No 55), in support of their opposition to Plaintiffs' Motion for Preliminary Injunction. A copy of the Priddis Declaration and the pertinent Exhibit "A" attached thereto are attached hereto.

Defendants' declaration must set forth facts that would be admissible at trial. See Salt Lick Bancorp v. FDIC, 187 Fed. App. 428, 444 (6th Cir. May 30, 2006) (quoting Fed. R. Civ. P. 56(e)); Silver v. Exec. Car Leasing Long-Term Disability Plan, 466 F.3d 727, 732 (9th Cir. 2006).

The Priddis Declaration fails to comply with the rules for such pleadings. The reference to "…hundreds of mechanical and reprint licenses pertaining to the 'subject works'…" (Priddis Decl, ¶ 3), upon which PRIDDIS seeks to rely as a defense to the infringement claims, without attaching copies of the purported licenses, constitutes *multiple-level hearsay*. Such matters should be stricken from the record and not be considered by the Court in its consideration of the merits of Plaintiffs' motion. Knox v. Neaton Auto Prods. Mfg., Inc., 375 F.3d 451, 461 (6th Cir. 2004) ("[T]he district court correctly concluded that these alleged statements, overheard by a co-worker's co-worker, constitute hearsay within hearsay and would not be admissible in court to persuade a jury that Wright acted with actual malice."); see also Reynolds v. Green, 184 F.3d 589, 596 (6th Cir. 1999) ("[S]uch 'hearsay within hearsay' is inadmissible unless both levels of hearsay fall within an exception to the hearsay rule. No such exceptions were applicable in the present case.").

In addition, the same reference to "…hundreds of mechanical and reprint licenses pertaining to the 'subject works'…" violates the best evidence rule because the purported licenses are not attached. The best evidence rule requires an original or duplicate to be provided in order to prove the contents of a writing, absent unusual circumstances not applicable here. See Fed. R. Evid. 1002-03. Defendants have neither provided an original or duplicate of the purported licenses nor offered a justification for deviating from this well-established rule. Accordingly, the Declaration should be stricken.

For the reasons set forth above, Plaintiffs' motion to strike the Declaration of Richard L. Priddis should be *granted*.

RESPECTFULLY SUBMITTED,

By: s/ Timothy L. Warnock_________________

Timothy L. Warnock (BPR #12844)
Bowen, Riley, Warnock & Jacobson, PLC
1906 West End Avenue
Nashville, TN 37203
Ph.: 615-320-3700

and

Paul Harrison Stacey
Law Offices of Paul Harrison Stacey, P.C.
Wyoming Bar No. 5-2615
7225 N. Spring Gulch Road
P.O. Box 4157

Jackson, WY 83001
Ph: 307-733-7333
Fax: 307-733-7360

*Illinois Office:
202 W. Willow Avenue, Suite 103
Wheaton, Illinois 60187
Ph: 630-462-1949
Fax: 630-462-9293

Attorneys for Plaintiffs Famous Music, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic means, via the Court's ECF system upon the following:

James C. Bradshaw III, BPR # 13170
Michael D. Hornback, BPR # 22128
WYATT, TARRANT & COMBS, LLP
2525 West End Avenue, Suite 1500
Nashville, Tennessee 37203

Jeff T. Goodson
Law Offices of John Cobb Rochford, PLLC
2200 Abbot Martin Road, Suite 201
Nashville, TN 37215

Owen Borum
Caplan & Ernest, LLC
One Boulder Plaza
1800 Broadway, Suite 200
Boulder, Colorado 80302-6737

this the 10th day of August, 2007.

s/ Timothy L. Warnock